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(3) interest on debt incurred for the establishment of a debt reserve fund, net of the interest earned on the debt reserve fund.

C. Debt incurred for costs under item B is not subject to Section 16.050, item A, subitems (5) or (6).

D. The incremental increase in a nursing facility's rental rate, resulting from the acquisition of allowable capital assets, and allowable debt and interest expense under this section shall be added to its property-related payment rate and shall be effective on the first day of the month following the month in which the moratorium project was completed.

E. Notwithstanding Section 16.040, item A, subitem (4) for rate periods beginning on October 1, 1992, and for rate years beginning after June 30, 1993, the replacement-costs-new per bed limit to be used in Section 16.040, item B, for a nursing facility that has completed a renovation, replacement, or upgrading project that has been approved under the moratorium exception process or that has completed an addition to or replacement of buildings, attached fixtures, or land improvements for which the total historical cost exceeds the lesser of \$150,000 or ten percent of the most recent appraised value, must be \$47,500 per licensed bed in multiple-bed rooms and \$71,250 per licensed bed in a single-bed room. These amounts must be adjusted annually as specified in Section 16.040, item A, subitem (4) beginning January 1, 1993.

F. The Commissioner of the Minnesota Department of Health, in coordination with the Commissioner of the Minnesota Department of Human Services, shall deny each request for new licensed or certified nursing home or certified boarding care beds except as provided under the moratorium exceptions process. "Certified bed" means a nursing home bed or a boarding care bed certified by the Commissioner of health for the purposes of the medical assistance program under United States Code, title 42, sections 1396 et seq.

The Commissioner, in coordination with the Commissioner of the Minnesota Department of Health, shall deny any request to issue a nursing home license to a facility if that license would result in an increase in the medical assistance reimbursement amount.

In addition, the Commissioner of the Minnesota Department of Health must not approve any construction project whose costs exceed \$1,000,000 unless:

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(1) Any construction costs exceeding \$1,000,000 are not added to the facility's appraised value and are not included in the facility's payment rate for reimbursement under the medical assistance program; or

(2) The project:

(a) has been approved through the moratorium exception process described in state law;

(b) meets an exception described in the moratorium exception state law;

(c) is necessary to correct violations of state or federal law issued by the Commissioner of the Minnesota Department of Health;

(d) is necessary to repair or replace a portion of the facility that was destroyed by fire, lightning, or other hazards provided that the provisions of statute governing replacement are met;

(e) as of May 1, 1992, the facility has submitted to the Commissioner of the Minnesota Department of Health written documentation evidencing that the facility meets the "commenced construction" definition as specified in Section 1.030, or that substantial steps have been taken prior to April 1, 1992, relating to the construction project. "Substantial steps" require that the facility has made arrangements with outside parties relating to the construction project and has include the hiring of an architect or construction firm, submission of preliminary plans to the Department of Health or documentation from a financial institution that financing arrangements for the construction project have been made; or

(f) is being proposed by a licensed nursing facility that is not certified to participate in the Medical Assistance Program and will not result in new licensed or certified beds.

G. Prior to the final plan approval of any construction project, the Commissioner of the Minnesota Department of Health shall be provided with an itemized cost estimate for the project construction costs. If a construction project is anticipated to be completed in phases, the total estimated cost of all phases of the project shall be submitted to the Commissioner and shall be considered as one construction project. Once the construction project is completed and prior to the final clearance by the Commissioner of the Minnesota Department of Human

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Services, the total project construction costs for the construction project shall be submitted to the Commissioner. If the final project construction cost exceeds the dollar threshold in this subdivision, the Commissioner of Human Services shall not recognize any of the project construction costs or the related financing costs in excess of this threshold in establishing the facility's property-related payment rate.

Project construction costs includes the cost of new technology implemented as part of the construction project and depreciable equipment directly identified to the project.

"Technology" means information systems or devices that make documentation, charting, and staff time more efficient or encourage and allow for care through alternative settings including touch screens, monitors, hand-helds, swipe cards, motion detectors, pagers, telemedicine, medication dispensers, and equipment to monitor vital signs and self-injections, and to observe skin and other conditions.

Any new technology and depreciable equipment included in the project construction costs will, at the written election of the facility, be included in the facility's appraised value, and debt incurred for its purchase is included as allowable debt for purposes of Section 16.050, items A and C. Any new technology and depreciable equipment included in the project construction costs that the facility elects not to include in its appraised value and allowable debt is treated as provided in item B. Written election must be included in the facility's request for the rate change related to the project, and this election may not be changed.

The dollar thresholds for construction projects are as follows: for construction projects other than those authorized in subitems (a) to (f), the dollar threshold is \$1,000,000. For projects authorized after July 1, 1993, under subitem (a), the dollar threshold is the cost estimate submitted with a proposal for an exception to the state's moratorium law, plus inflation as calculated according to section 16.1378. For projects authorized under subitems (b) to (d), the dollar threshold is the itemized estimate project construction costs submitted to the Commissioner of Health at the time of final plan approval, plus inflation as calculated according to Section 16.1378.

H. For purposes of this section, a total replacement means the complete replacement of the nursing facility's physical plant through the construction of a new physical plant, the transfer of the nursing facility's license from one physical plant location to another, or a new building addition to relocated beds from three- and four-bed wards.

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(1) For total replacement projects completed on or after July 1, 1992, the incremental change in the nursing facility's rental per diem, for rate years beginning on or after July 1, 1995, shall be computed by replacing its appraised value, including the historical capital asset costs, and the capital debt and interest costs with the new nursing facility's allowable capital asset costs and the related allowable capital debt and interest costs.

(2) If the new nursing facility has decreased its licensed capacity, the aggregate replacement cost new per bed limit in Section 16.040, item G, shall apply.

(3) If the new nursing facility has retained a portion of the original physical plant for nursing facility usage, then a portion of the appraised value prior to the replacement must be retained and included in the calculation of the incremental change in the nursing facility's rental per diem. For purposes of this subitem, the original nursing facility means the nursing facility prior to the total replacement project. The portion of the appraised value to be retained shall be calculated according to clauses (a) to (c):

(a) The numerator of the allocation ratio shall be the square footage of the area in the original physical plant which is being retained for nursing facility usage;

(b) The denominator of the allocation ratio shall be the total square footage of the original nursing facility physical plant;

(c) Each component of the nursing facility's allowable appraised value prior to the total replacement project shall be multiplied by the allocation ratio developed by dividing clause (a) by clause (b).

(4) In the case of either type of total replacement as authorized under statutory exceptions or moratorium process exceptions, the provisions of this subitem will also apply. For purposes of the moratorium exception authorized by statutory exception which permits the relocation of 117 beds from a 138 bed nursing home to a former hospital, if the total replacement involves the renovation and use of an existing health care facility physical plant, the new allowable capital asset costs and related debt and interest costs shall include first the allowable capital asset costs and related debt and interest costs of the renovation, to which shall be added the allowable capital asset costs of the existing physical plant prior to the renovation, and if reported by the facility, the related allowable capital debt and interest costs.

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I. Notwithstanding Section 16.110, item C, subitem (2), for a total replacement as defined in item H after July 1, 1999, or any building project that is a relocation, renovation, upgrading, or conversion completed on or after July 1, 2001, the replacement-costs-new per bed limit are \$74,280 per licensed bed in multiple-bed rooms, \$92,850 per licensed bed in semiprivate rooms with a fixed partition separating the resident beds, and \$111,420 per licensed bed in single rooms. Beginning January 1, 2000, these amounts must be adjusted annually as specified in item E.

J. Notwithstanding Section 16.110, item C, subitem (2), for a total replacement as defined in item H, for a 96-bed nursing facility in Carlton county, the replacement costs new per bed limit for multiple-bed rooms, for semiprivate rooms with a fixed partition separating the resident beds, and for single rooms are the same as in item I. The resulting maximum allowable replacement costs new multiplied by 1.25 constitute the project's dollar threshold for purposes of application of the \$1,000,000 plus inflation limit set forth in state law. The deadline for total replacement of this 96-bed nursing facility is May 31, 2000.

K. Notwithstanding Section 16.110, item C, subitem (2), for a total replacement as defined in item H involving a new building addition that relocates beds from three-bed wards for an 80-bed nursing home in Redwood county, the replacement costs new per bed limit for multiple-bed rooms, for semiprivate rooms with a fixed partition separating the resident beds, and for single rooms are the same as in item I. These amounts will be adjusted annually, beginning January 1, 2001. The resulting maximum allowable replacement costs new multiplied by 1.25 constitute the project's dollar threshold for purposes of application of the \$1,000,000 plus inflation limit set forth in state law. If the other requirements in state law governing approval of requests for amendments to moratorium exception projects are met, the Department of Health may waive the requirement that the nursing facility's request for an amendment to its moratorium exception project design may not reduce the space in each resident's living area or in the total amount of common space devoted to resident and family uses by more than five percent.

L. For a renovation authorized under moratorium process exceptions for a 65-bed nursing home in St. Louis county, the incremental increase in rental rate for purposes of item D shall be \$8.16, and the total replacement cost, allowable appraised value, allowable debt, and allowable interest are increased according to the incremental increase.

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M. Effective July 1, 2001, the Commissioner of the Minnesota Department of Health, in coordination with the Commissioner of the Minnesota Department of Human Services may:

- (1) license and certify beds in nursing facilities that have undergone replacement or remodeling as part of a planned closure pursuant to Section 20.027;
- (2) license and certify a total replacement project of up to 124 beds in facilities significantly damaged in the flood of 1997 when the damage was not apparent until years later. The operating cost payment rates for a new facility are determined pursuant to the interim and settle-up payment provisions of Section 12.000 and the payment provisions of this Attachment, except that Section 11.047, items A and B do not apply until the second rate year after the settle-up cost report is filed. Property-related payment rates are determined pursuant to this Attachment, taking into account any federal or state flood-related loans or grants provided to the facility;
- (3) allow facilities that provide residential services for the physically handicapped with less than 60 beds to transfer nine beds to provide residential services, provided that the total number of licensed and certified beds does not increase;
- (4) allow non-profit facilities in the county with the fewest beds per 1000 for age 65 and over that are not accepting beds from another closing non-profit facility to build replacement facilities of up to 120 beds, provided the new facility is located within four miles of the existing facility and is in the same county. Operating and property rates are determined pursuant to this Attachment, except that Section 11.047, items A and B do not apply until the second rate year after settle-up; and
- (5) allow organizations that operate non-profit facilities in the county with the fewest beds per 1000 for age 65 and over to obtain up to 98 beds of a closing non-profit facility. All transferred beds will be put on layaway status, held in the name of the receiving facility. The layaway adjustment provisions of Section 20.100 do not apply. A receiving facility may only remove the beds from layaway for recertification and relicensure at the receiving facility's current site, or at a newly constructed facility located in Anoka County. A receiving facility must receive authorization before removing these beds from layaway status.

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SECTION 16.1375 Appraisals; updating appraisals, additions, and replacements.

A. Notwithstanding Sections 16.010 to 16.030, the appraised value, routine updating of the appraised value, and special reappraisals are subject to this section.

B. Notwithstanding Section 16.020, for rate years beginning after June 30, 1993, the Commissioner shall routinely update the appraised value of each nursing facility by adding the cost of capital asset acquisitions to its allowable appraised value. The Commissioner shall also annually index each nursing facility's allowable appraised value by the inflation index referenced in Section 16.040, item A, subitem (4), for the purpose of computing the nursing facility's annual rental rate. In annually adjusting the nursing facility's appraised value, the Commissioner must not include the historical cost of capital assets acquired during the reporting year in the nursing facility's appraised value. In addition, the nursing facility's appraised value must be reduced by the historical cost of capital asset disposals or applicable credits such as public grants and insurance proceeds. Capital asset additions and disposals must be reported on the nursing facility's annual cost report in the reporting year of acquisition or disposal. The incremental increase in the nursing facility's rental rate resulting from this annual adjustment shall be added to the nursing facility's property-related payment rate for the rate year following the reporting year.

Section 16.1376 Refinancing incentive.

A. A nursing facility that refinances debt after May 30, 1992, in order to save in interest expense payments as determined in subitems (1) to (5) may be eligible for the refinancing incentive under this Section. To be eligible for the refinancing incentive, a nursing facility must notify the Commissioner in writing of such a refinancing within 60 days following the date on which the refinancing occurs. If the nursing facility meets these conditions, the Commissioner shall determine the refinancing incentive as in subitems (1) to (5).

(1) Compute the aggregate amount of interest expense, including amortized issuance and financing costs, remaining on the debt to be refinanced, and divide this amount by the number of years remaining for the term of that debt.

(2) Compute the aggregate amount of interest expense, including amortized issuance and financing costs, for the new debt, and divide this amount by the number of years for the term of that debt.

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(3) Subtract the amount in subitem (2) from the amount in subitem (1), and multiply the amount, if positive, by .5.

(4) The amount in subitem (3) shall be divided by the nursing facility's occupancy factor under Section 16.090, items C or D.

(5) The per diem amount in subitem (4) shall be deducted from the nursing facility's property-related payment rate for three full rate years following the rate year in which the refinancing occurs. For the fourth full rate year following the rate year in which the refinancing occurs, and each rate year thereafter, the per diem amount in subitem (4) shall again be deducted from the nursing facility's property-related payment rate.

B. An increase in a nursing facility's debt for costs in Section 16.1375, item B, subitem (2), including the cost of refinancing the issuance or financing costs of the debt refinanced resulting from refinancing that meets the conditions of this section shall be allowed, notwithstanding Section 16.050, item A, subitem (6).

C. The proceeds of refinancing may not be used for the purpose of withdrawing equity from the nursing facility.

D. Sale of a nursing facility under Section 16.1371 shall terminate the payment of the incentive payments under this section effective the date provided in Section 16.1371, item F, for the sale, and the full amount of the refinancing incentive in item A shall be implemented.

E. If a nursing facility eligible under this section fails to notify the Commissioner as required, the Commissioner shall determine the full amount of the refinancing incentive in item A, and shall deduct one-half that amount from the nursing facility's property-related payment rate effective the first day of the month following the month in which the refinancing is completed. For the next three full rate years, the Commissioner shall deduct one-half the amount in item A, subitem (5). The remaining per diem amount shall be deducted in each rate year thereafter.

F. The Commissioner shall reestablish the nursing facility's rental rate following the refinancing using the new debt and interest expense information for the purpose of measuring future incremental rental increases.

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SECTION 16.1377 Special property rate setting. For rate periods beginning on October 1, 1992, and for rate years beginning after June 30, 1993, the property-related payment rate for a nursing facility approved for total replacement under the moratorium exception process through an addition to another nursing facility shall have its property-related rate under Section 16.1370 recalculated using the greater of actual resident days or 80 percent of capacity days. This rate shall apply until the nursing facility is replaced or until the moratorium exception authority lapses, whichever is sooner.

SECTION 16.1378 Indexing thresholds. Beginning January 1, 1993, and each January 1 thereafter, the Commissioner shall annually update the dollar thresholds in Sections 16.1373, and 16.1374, by the inflation index referenced in Section 16.090, item A, subitem (4).

SECTION 16.138 Plant and maintenance costs. For the rate years beginning on or after July 1, 1987, the Department shall allow as an expense in the reporting year of occurrence the lesser of the actual allowable plant and maintenance costs for supplies, minor equipment, equipment repairs, building repairs, purchased services and service contracts, except for arms-length service contracts whose primary purpose is supervision, or \$325 per licensed bed.

SECTION 16.140 Determination of interim and settle-up payment rates. The Department shall determine interim and settle-up payment rates according to items A to J.

A. A newly-constructed nursing facility, or one with a capacity increase of 50 percent or more, may submit a written application to the Department to receive an interim payment rate. The nursing facility shall submit cost reports and other supporting information as required in Sections 1.000 to 19.050 for the reporting year in which the nursing facility plans to begin operation at least 60 days before the first day a resident is admitted to the newly-constructed nursing facility bed. The nursing facility shall state the reasons for noncompliance with Sections 1.000 to 19.050. The effective date of the interim payment rate is the earlier of either the first day a resident is admitted to the newly-constructed nursing facility or the date the nursing facility bed is certified for medical assistance. The interim payment rate for a newly-constructed nursing facility, or a nursing facility with a capacity increase of 50 percent or more, is determined under items B to D.

B. The interim payment rate must not be in effect more than 17 months. When the interim payment rate begins between May 1 and September 30, the nursing facility shall file settle-up cost reports for the period from the beginning of the interim payment rate through September 30 of the following year. When the interim payment rate begins between October 1

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and April 30, the nursing facility shall file settle-up cost reports for the period from the beginning of the interim payment rate to the first September 30 following the beginning of the interim payment rate.

C. The interim payment rate for a nursing facility which commenced construction prior to July 1, 1985, is determined under the temporary rule then in effect, except that capital assets must be classified under Sections 1.000 to 19.050.

D. The interim property-related payment rate for a nursing facility which commences construction after June 30, 1985, is determined as follows:

(1) At least 60 days before the first day a resident is admitted to the newly-constructed nursing facility bed and upon receipt of written application from the nursing facility, the Department shall establish the nursing facility's appraised value according to Sections 16.010 and 16.040.

(2) The nursing facility shall project the allowable debt and the allowable interest expense according to Sections 16.050 and 16.070.

(3) The interim building capital allowance must be determined under Section 16.080 or 16.090.

(4) The equipment allowance during the interim period must be the equipment allowance computed in accordance with Section 16.100 which is in effect on the effective date of the interim property-related payment rate.

(5) The interim property-related payment rate must be the sum of subitems (3) and (4).

(6) Anticipated resident days may be used instead of 95% percent capacity days.

E. The settle-up property-related payment rate and the property-related payment rate for the nine months following the settle-up for a nursing facility which commenced construction before July 1, 1985, is determined under the temporary rule then in effect. The property-related payment rate for the rate year beginning July 1 following the nine-month period is determined under Sections 16.000 to 16.140.